

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
KENNEDY PINTO, KATYA PINTO, and  
RANDY WINNER on behalf of themselves  
and other similarly situated,

Plaintiffs,

v.

FELIDIA RESTAURANT, INC. and LIDIA  
BASTIANICH

Defendants.  
-----X

Index No. 12 Civ. 3730 (CPAC)

~~PROPOSED~~ ORDER PRELIMINARILY APPROVING CLASS ACTION  
SETTLEMENT AND PROVIDING FOR NOTICE

WHEREAS, the above-captioned matter (the "Wage Action") is currently pending before this court;

WHEREAS, Plaintiffs have made an application, pursuant to Fed. R. Civ. P. 23(e) for an order preliminarily approving the settlement of the claims alleged in the Lawsuit, in accordance with a Stipulation of Class Action Settlement dated May 7, 2013 (the "Agreement"), which, together with the exhibits annexed thereto, sets forth the terms and conditions for a proposed settlement of the Wage Action against Defendants and for dismissal of the Wage Action against Defendants with prejudice upon the terms and conditions set forth therein, and the Court has read and considered the Agreement and the exhibits thereto; and,

WHEREAS, all terms contained and not otherwise defined herein shall have the same meanings set forth in the Agreement.

IT IS ON THIS 22<sup>nd</sup> DAY OF October, 2013 HEREBY ORDERED AS  
FOLLOWS:

1. The Court hereby preliminarily approves the settlement set forth in the Agreement as being fair, just, reasonable and in the best interests of the Settlement Class as described in the Agreement (hereinafter the "Class").

2. The Court hereby preliminarily certifies the Fed. R. Civ. P. 23 Class (the "Class") for settlement purposes. For the purposes of settlement the Court finds that the Class meets the requirements for class certification under Fed. R. Civ. P. 23(b)(3), subject to the entry of the Final Order and Judgment as provided in the Agreement.

3. The Court hereby preliminarily certifies Plaintiffs' counsel as Class Counsel, and the named Plaintiffs as Class Representatives as described in the Agreement, subject to the entry of the Final Order and Judgment as provided in the Agreement.


4. The Settlement Hearing Shall be held before this Court, on February 27, <sup>2014</sup>~~2013~~ **(at least 100 days after the entry of this Order)** at the United States District Court, Southern District of New York, U.S. Courthouse, 500 Pearl Street, at 4:45 pm New York, NY 10007, to determine whether the proposed settlement of the Wage Action on the terms and conditions provided for in the Agreement is fair, just, reasonable, adequate and in the best interests of the Class, and should be approved by the Court; whether an Order and Final Judgment of Dismissal, as provided in the Agreement, should be entered; and to determine the amount, if any, of attorneys' fees and costs, settlement administration costs, and service awards that should be awarded.

5. The Court approves, as to form and content, the Settlement Notice and finds that the mailing and distribution of the Settlement Notice substantially in the manner and form set forth in the Agreement constitutes the best notice practicable under the circumstances, and constitutes

valid, due and sufficient notice to all persons in the Class, complying fully with the requirements of Fed. R. Civ. P. 23, the Constitution of the United States and any other applicable laws.

6. The Court reserves the right to adjourn the date of the Fairness Hearing without further notice to the Class Members, and retains jurisdiction to consider all further applications arising out of or connected with the proposed settlement. Notice of any adjournment can be obtained from Class Counsel: Denise A. Schulman, Esq., Joseph & Kirschenbaum LLP, 233 Broadway, Fifth Floor, New York, NY 10279 (phone: 212-688-5640). The Court may approve the settlement, with such modifications as may be agreed to by the settling parties, if appropriate, without further notice to the Class.

7. On or before the date that is seven (7) days before the final approval hearing, Class Counsel shall move the Court for final approval of the settlement, and submit a memorandum of law in support of Plaintiffs' application for attorneys' fees and costs, settlement administration costs, and service awards.



Hon. Paul A. Crotty, U.S.D.J.

Dated: October 22, 2013